

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

ROY CHAMBERS, Jr,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No. 5:21-cv-00001-MTT-CHW
	:	
GEORGIA DEPARMENT OF	:	
CORRECTIONS, <i>et al.</i>,	:	Proceedings Under 42 U.S.C. § 1983
	:	Before the U.S. Magistrate Judge
Defendants.	:	
	:	

ORDER

Presently pending before the Court is Defendants Lindsey Thornton, Georgia Department of Corrections (GDC) and Jackson State Prison (JSP) motion asking to be relieved from default filed September 29, 2021. (Doc. 24). The following day, the Court received Plaintiff's application for default against Defendants. (Doc. 27). No default has been entered on the docket.

Defendants admit, and the record confirms, that they formally waived service on August 4, 2021. (Docs. 19-21). Defendants acknowledged receipt of service on July 14, 2021, from which date they had 60 days to answer or file a Rule 12(b) motion. Fed. R. Civ. P. 4(d)(3). The time for response ran on September 13, 2021. A little more than two weeks later on, Defendants filed this motion contemporaneously with a motion to dismiss, citing staffing issues and an ongoing investigation to see if filing a motion to dismiss was warranted before answering Plaintiff's complaint as reasons for missing the deadline. (Doc. 24, p. 2).

Defaults are viewed with disfavor, and there is a "strong policy of determining cases on their merits." *In re Worldwide Web Sys., Inc.*, 328 F.3d 1291, 1295 (11th Cir. 2003). Rule 55(c) of the Federal Rules of Civil Procedure provides that the Court may set aside any entry of default

for “good cause,” which generally requires the consideration of factors such as: “whether the default was culpable or willful, whether setting [the default] aside would prejudice the adversary, and whether the defaulting party presents a meritorious defense.” *Compania Interamericana Export-Import, S.A. v. Compania Dominicana de Aviacion*, 88 F.3d 948, 951 (11th Cir. 1996).

There is no genuine suggestion on the present record of any culpable conduct by Defendants, they have raised grounds for a potentially meritorious defense in this action, and there is no indication that Plaintiff will suffer from prejudice by litigating the merits of his claims through the ordinary legal process. Therefore, Plaintiff’s application for default (Doc. 27) is **DENIED** and Defendants’ motion to be relieved from default (Doc. 24) is **GRANTED**. Defendants’ motion to dismiss will be permitted to proceed and no answer from Defendants is necessary at this time.

SO ORDERED, this 27th day of October, 2021.

s/ Charles H. Weigle
Charles H. Weigle
United States Magistrate Judge